

APPROVED 9.17.2020
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ZONING BOARD OF APPEALS
Ipswich, Massachusetts
Meeting Minutes
August 20, 2020

Pursuant to a written notice posted by the Town Clerk and published in the Ipswich Local News, a newspaper of general circulation; the Ipswich Zoning Board of Appeals held a meeting on Thursday August 20, 2020 at 7:30 p.m. remotely via Zoom Video Conferencing, in accordance with the Governor's 3.12.20 Order suspending provisions of the Open Meeting Law to promote public health and safety and social distancing during the public health emergency. Members tuned in were Chair Robert Gambale, Benjamin Fierro, Lewis Vlahos, Rob Clocker and Justin Planasch. Also, Administrative Assistant Marie Rodgers.

This meeting was recorded by the host.

Announcements:

Chairman Gambale announced the Select Board recently appointed Justin Planasch as full time member.

Chair announced the Petitioner's request to continue the public hearing for **25 Pleasant Street**, Elder Friendly Housing, LLC. Karl Mayer requests a Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct eight (8) age-restricted for-sale dwelling units of which 25% (2 units) would be subsidized for low to moderate income use. (Map 41B Lot 043) **to September 17, 2020 meeting to be held in Room A in Town Hall or remotely via Zoom at 7:30 p.m.**

Documents and exhibits used by the Appeals Board: email from Attorney Paul Ross dated 8.18.2020 requesting to continue the public hearing to September 17, 2020 and an Extension of Time to 10.20.2020

Continued Public Hearings:

26 Essex Road (Assessor's Map 54A, Lot 14A) **36 Essex Road** (Map 54C, Lot 22); **38 Essex Road** (Map 54C, Lot 22A) **42 Essex Road**, (Map 54C, Lot 23) and **44 Essex Road** (Map 54C, Lot 24) **Essex Pastures, LLC** requests Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct one hundred ninety-four (194) residential rental units, of which forty-nine (49) units would be affordable to households earning no more than eighty-percent (80%) of the area median income. (continued from the June, 2018 all of 2019; through January, February, March, April, May, June and July 2020 meetings)

Chairman Gambale read the legal notice and re-opened the public hearing at 7:31 p.m. Attorney Jon Whitten was present representing the Board.

The Petitioner was present, represented by Attorney John Smolak, who reviewed the last hearing. TEC changed the landscape reviewer to Copley and Wolfe Design Group, in response to the applicant's objection to the cost of the previous firm.

Attorney Smolak indicated that a response will be provided to the Town's Fire Chief, Conservation Agent and Director of Water & Waste Water director at the September 17th meeting. An updated Revised Preliminary Site Plans was submitted August 17, 2020 — 6 pgs. dated 8/14/2020 and updated storm water report revised August 2020.

Chair Gambale anticipates answers to the comments from Vickie Halmen. Mr. Fierro suggested sending comments from Vickie Halmen to TEC; and comments from Brendan Lynch, Conservation Agent to the Landscape peer reviewer.

The Board and Attorney Smolak reviewed the latest proposal from TEC and discussed the costs of peer review. Attorney Smolak noted that their James Emmanuel is very familiar with issues brought up by the Conservation Agent; he confirmed the Conservation Commission will review the proposal, because of work within the buffer zone.

Chair recognized Keri MacRae, Heartbreak Rd who criticized the timing of submittal of revised plans at the last minute and not having access to department comment letters. She expressed her frustration at not receiving any response to her email sent on 7/16/2020.

Discussion took place regarding the process of securing funds prior to peer review. Attorney Jon Whitten spoke to the process of review under Ch44 section 53G, concerning the applicant providing funds, prior to hiring consultants. Additionally, the applicant cannot contest unless conflict of interest or lack of qualifications are determined.

In response to the Chair, Ms. MacRae said her questions were answered about process; she would like to know what will be discussed at these meetings, ahead of time; she wants a better method of communication. Attorney Whitten pointed out that her complaints should be directed toward the applicant, not the Board.

Gary Champion, Palamino Way suggested the appraisal for the property that Mr. Bruni already owns is exaggerated. He claimed the financials of the project are incompatible with the 40B regulations and asked the Board to review the pro-forma. Attorney Whitten responded that the Board will have opportunity to review the financials toward the end of review, along with the pro-forma and may, at a future time, hire a third party to review pro-forma.

Judi Ashley Meadowview Lane expressed concerns regarding water usage and how a development of this size can be built, when the town is currently does not have enough water. Discussion ensued. Kerrie Mackin, Select Board member spoke to the significant impacts on town water with a development of this size. Ms. Mackin, Ms. Ashley will discuss the water issues with Vickie Halmen and provide a summary to the ZBA, at a future time.

Discussion was held concerning comments in the 'chat' section of the zoom program. It was determined that the only comments spoken aloud will go into the record.

Attorney Smolak indicated his understanding was that this meeting was for peer review discussion only. He objected to Ms. MacRae allegation that the numbers for the project were 'fudged'. He stated that parking complies with the local regulations in effect at the time the application was filed. He continued to say that answers will be forthcoming at the next hearing in response to peer review. And he stated that Vickie Halmen, Director of Water & Waste Water, did indicate that there is enough water.

Attorney Smolak agreed to submit an Extension of time to October 29th and requested to continue the public hearing to the September 17, 2020 meeting.

As there were no further comments or discussion, **in agreement with the Applicant, the Chair continued the public hearing to the September 17, 2020 meeting to be held in Room A in Town Hall or remotely via Zoom at 7:30 p.m.**

Documents and exhibits used by the Appeals Board: July 9, 2020 9:26 AM email from Fire Chief with comments
July 15, 2020 email from Peter S. Gordon direct abutter in objection. July 15, 2020 email from Atty Smolak 'Cover Letter describing latest changes dated June 7, 2020'
July 15, 2020 email from: Abutter Joanna Cooper 317 High St; Paula Jones, 40 Lakemans Lane; Joan Gould, 23 Skytop Road; Peter Gordon residence in objection; July 16, 2020 – email from Keri MacRae with questions and concerns; July 23, 2020 – TEC Peer Review proposed estimate 5 pgs; July 25, 2020 email from Joseph Ciardiello, 10 Drumlin Road; please consider my objection letter to be read before the next board meeting. July 30, 2020 vehicle staging and turning plans 7 pgs - Michael J. Appleyard, Staff Engineer, Hancock Associates. July 30, 2020 – Davis Square Peer Review proposal; August 3, 2020 – Kristina Brendel with attach Ipswich Local News letter from Chris Florio resident in objection. August 4, 2020 – Chief Andy Theriault – okay with new plans. August 4, 2020 email John Stump resident in objection. August 5, 2020 email Brian Baise resident objecting. August 5, 2020 email Georgia Flood resident objecting. August 10, 2020 email Rainer & Rosemary Koch direct abutters in opposition. August 11, 2020 email Brendan Lynch, Conservation Agent comments. August 14, 2020 Michael Forden Walker resident in objection
August 17, 2020 – Revised Preliminary Site Plans – 6 pgs dated 8/14/2020

29 North Main St, Paul DeRonde/deRonde Family LLC requests a **Special Permit and/or Variance** pursuant to, but not necessarily limited to sections XI.J and V. D Table of Use Regulations for a coffee and bakery shop (Assessor's Map 42A, Lot 128) located in the In Town Residential (IR) Zoning District. (continued from the July 2020 meeting)

The Petitioner was present with Susanne Young and her husband John Clermont and Molly Friedman. Chairman Gambale read the legal notice and re-opened the public hearing at 8:25 p.m.

At the Board's direction from the last meeting the Petitioner re-applied for a special permit for a coffee/bakery shop;

Chairman Gambale noted seventeen letters of support that were sent to the ZBA office.

Discussion was held regarding the layout of suite a. and suite b. Public space is 302 square feet. Parking on site was discussed. Paul deRonde described two parking spaces in the rear of the Odd Fellows building. He spoke to the lot boundaries on a site plan from Donohue Survey, Inc. dated June 1996.

Chair recognized George R. Gray Chairperson, Trustee of the Ipswich Public Library. The Board addressed his concerns he submitted in a letter dated 8.12.2020. No zoning changes are proposed. A new use would require review and new special permit. No outdoor seating, the business will be take out, it will not be a restaurant. Mr. Gray expressed his concerns about parking and the volume of visitors the library received on an annual basis. The number one complaint is lack of parking. Mr. Gray then spoke to the good news of the library entering phase 2 in reopening the library. Board members noted that two parking spaces in the rear of the Odd Fellows building would be used for employee parking.

Discussion took place regarding the proposal located in the IR zoning district, and the sections of the bylaw that allows the Board to grant a special permit; Section V, Table of Use Regulations, Commercial, as a "Retail establishment selling principally convenience goods including but not limited to: food, drugs & proprietary goods."

Chairman noted that the ZBA office received over seventeen letters of support.

Chair recognized Helen Weatherall, Fellows Road, Carrie Woodruff, Argilla Rd and Elizabeth Townsend, Argilla Rd all voicing support. E. Townsend suggested placing a bike rack in front of the store.

John Muldoon, North Main Street questioned hours of operation in a residential district. Mr. Fierro noted that the bylaw does not specify hours and the Board may condition the special permit. Mr. Fierro asked about the amount of waste generated and the need for a dumpster. Ms. Young said they produce a minimal amount of waste, two thirty-five gallon bins a week and they are cognizant of recycling.

Chair Gambale asked about deliveries and Ms. Young described deliveries three times a week with a vehicle the size of a FEDEX truck and delivery of paper goods, one time a month in a small U-Haul sized truck.

The Building Department has jurisdiction over signage; it was suggested to stencil a sign on the front window.

Mr. Fierro reviewed the application of the bylaw and led the Board in a review of the criteria for a special permit.

The business proposal is applicable in the use category in the Table of Use Regulations – retail establishment selling principally convenience goods including, but not limited to; food, drug & proprietary goods, allowed in the IR zoning district.

MOTION:

Mr. Fierro moved that the Board find the Petition meets the criteria under XI.J sub-paragraph II. a&b sub-section b.

Mr. Planasch seconded, the motion passed with a roll call vote.

MOTION:

Mr. Fierro moved that the Board grant the Petitioner's request for a Special Permit pursuant to the Protective Zoning Bylaw V. D Table of Use Regulations and XI.J of to allow a coffee and bakery shop as set forth in the application date 8.13.2020 subject to the conditions store hours for the public would be Tuesday through Saturday from 8 a.m. to 5 p.m.,

employee hours would be Tuesday through Saturday from 4 a.m. to 5 p.m. ,And two parking spaces be provided in the rear for employees. Mr. Vlahos seconded. Discussion concerning parking, only one parking space was required. The motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board:

Emails dated 7.20.2020 from Cheryl Clapp, no address; Joan Wilking Bayview Rd. and Shirley Berry, Liberty St
Email dated 7.21.2020 from Elizabeth Keane, Summer St; Kevin Shea, no address.
Email dated 7.21.2020 Jennifer & Henry Miller, Linden St;
Email dated 7.22.2020 Donald Lowe Woods Lane
Email dated 7.23.2020 Christopher Blagg no address.
Email dated 7.25.2020 Raul Laguarda East St.
Email dated 7.21.2020 Sean Cashman, Summer St.
Email dated 7.21.2020 Elizabeth Kean Summer St.
Email dated 7.25.2020 Murray Whyte, N. Main St
Email dated 7.31.2020 Sian Richards N. Main St
Email dated 7.31.2020 Jason Keough N. Main St
Email dated 8.1.2020 Alicia Frick Laguarda and Paul Laguarda, East St
Email dated 8.12.2020 George Gray, Chair of Trustees of the Ipswich Library
Email dated 8.14.2020 Michael Forden Walker, Green St
Email dated 8.20.2020 letter to Board from Jim Bone Building Commissioner

3 Randall Road, Keith Buchanan requests a **Special Permit** pursuant to, but not necessarily limited to Sections XI.J and VI, Footnote 2 and of the Zoning Bylaw to reduce the side yard setback by less than 50% for construction of an 200 square foot deck at the rear of the existing home (Assessor's Map 37B, Lot 063) located in the Rural Residential A (RRA) Zoning District. [At the last meeting, the Board made clear, the lot is a corner lot and has no rear setback]

Chairman Gambale read the legal notice and re-opened the public hearing at 9:25 p.m.
The Petitioners were present. On August 13, 2020 the Petitioner's submitted a revised site plan showing a reduction of the side yard setback for construction of an 72-square foot deck (12'x6") (a reduction of 128-square feet from their previous request) in order to comply with the 50% reduction for the granting of a special permit.

Discussion was held; the Board noted that the Petitioner reduced the size of the deck, bringing it into compliance with the 50% reduction of the side setback, allowing the Board to consider granting a special permit.

Mr. Fierro reviewed the criteria under sections VI -Table of Dimensional & Density footnote 2. Legally pre-existing non-conforming lot, with two sides and two fronts. The side setbacks are forty feet in RRA zoning district and can be reduce by 50% to twenty feet. Applicant is seeking twenty feet and one inch.

MOTION:

Mr. Fierro moved the Board find the applicant has met the criteria under sections IX.J paragraph 2. Mr. Vlahos seconded and the motion passed unanimously with a roll call vote.

MOTION: Mr. Fierro moved the Board grant the special permit as requested by the Petitioner from section VI and XI.J of the Protective Zoning Bylaw to construct a deck 12' x 6' to the rear of the home, no closers than 20-feet from the side set back as show on plans titled Proposed Deck Plan #3 Randall Road, dated 8.6.2020 Donohoe Survey, Inc. Topsfield, MA. Mr. Vlahos seconded. The motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition and associated documentation. Revised site plan by Donohoe Survey, Inc. dated 8.6.2020

155 Linebrook Road, William Rogers requests a **Special Permit and/or Variance** pursuant to, but not limited to Sections XI.J and XI.K and VI, Footnote 2 and of the Zoning Bylaw to reduce the side yard setback by less than 50% to construct a front porch (Assessor's Map 44, Lot 34) located in the Rural Residential A (RRA) Zoning District. (continued from July 2020 meeting)

Chairman Gambale read the legal notice and re-opened the public hearing at 9:34 p.m.

The Petitioners were present and explained their proposal requesting relief of the side yard setback to 31-feet for the construction of a porch. The structure would not be any closer to the lot line than the house and would maintain the current setback of the main dwelling.

The lot comprise 3.630 acres; the dwelling is cited 160-feet from the roadway. Currently there is a 6'x6' deck. The front of the dwelling is 31-feet from the right side yard setback. The proposed deck is 12'x24'.

Mr. Fierro reviewed the criteria under VI -Table of Dimensional & Density footnote 2 legally pre-existing non-conforming lot. The Board can reduce the setback no greater than 50% and the request is no closer than 31-feet.

The Board must find no adverse effects to the neighborhood as decks are a common characteristic of single-family homes. The Petitioner's materials are sufficient and definitive to determine the setback for a 12'x24' deck. There are no impacts on town services.

Increase asses value and add to tax base parking non-issue adequate utilities is not applicable.

MOTION:

Mr. Fierro moved the Board find the applicant has met the criteria under section XI.J. Mr. Vlahos seconded and the motion passed unanimously with a roll call vote.

MOTION: Mr. Fierro moved the Board grant the special permit as requested by the Petitioner from sections VI. Dimensional and Density Regulations and XI.J from the provisions of the Protective Zoning Bylaw to construct a 24'x12' deck as show on plans submitted with application (no title. TAX MAP 29D LOT 25 #153 Linebrook Road. no date) no closer than 29-feet to the side setback. Mr. Vlahos seconded. The motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition and associated documentation. Partial site plan, no date.

New Public Hearing:

306 Linebrook Road, Stephen & Helen Ingemi requests a **Special Permit and/or Variance** pursuant to, but not necessarily limited to section XI.J and XI.K and V.D Table of use Regulations to convert a one-family dwelling to a two-family dwelling. (Assessor's Map 27D lot 10A) located in the Rural Residential A (RRA) Zoning District.

Chairman Gambale read the legal notice and opened the public hearing at 9:44 p.m.

The Petitioners were present to explain their request. Ms. Ingemi related the history of the property when they purchased it in spring of 1999. She described the subsequent additions in 2005 and layout with a separate stair to the new bedroom from the sunroom. She asserted that it was a two-family decades ago when they bought it. She is looking for relief from the cost of upkeep and property taxes.

The front of the house would comprise 1700 square feet and the second unit would be approximately 1,675 square feet. She indicated her conversations with neighbors has been positive and provided fourteen signatures in support.

Twenty-one years have passed since it was converted to a single family.

The Board spoke to the bylaws regulating two-family dwellings and the passing of time negating her right to change back from a single-family to a two family. Options were discussed.

Further review took place, the bylaw cited, the problem is the 'use' and the lot size is insufficient for a two family. A Variance from the bylaw would be required for dimensional relief, then a special permit for a two family structure in this district.

The Petitioners spoke to paying taxes for years, their desire to remain in their home, in the same neighborhood and friends. The Board spoke to their decisions are not on merits of the proposal but on determination of their authority and the legal basis to apply the bylaws.

The Board suggested the Petitioners continue to next month, meanwhile speak to the building inspector and consider hiring an attorney.

Chair recognized citizens Jenny Hedderman, Donald Galiki and Jodi Huffcut who all spoke in support.

As there were no further comments or discussion, **in agreement with the Applicant, the Chair continued the public hearing to the September 17, 2020 meeting to be held in Room A in Town Hall or remotely via Zoom at 7:30 p.m.**

Documents and exhibits used by the Appeals Board: Petition application and associated documents. Email from Mary Ellen Theriault and Angie Hinckley dated 8.20.2020 in support

15 Arrowhead Trail, Jake Rogers requests a Modification to a Special Permit issued 2.20.2020 pursuant to, but not limited to sections XI.J VI Table of Table of Dimensional and Density Regulations footnote 2 for a for an addition of a garage reducing the left side setback no greater than 50% of the required at (Assessor's Map 31B, Lot 021) Chairman Gambale read the legal notice and opened the public hearing at 10:13 p.m. The Petitioner was present.

The Board issued a special permit in February 2020 for relief of the side set back, to be reduced to 30ft at the Petitioner's request. After some re-considering and working with their builders they decided to ask for several more feet.

Discussion was held, the Board found that the petition still met the criteria for the issuance of a Special Permit under Section XI, J. as set forth in the prior decision dated February 20, 2020 and reducing the side yard to 25-feet and would allow more room in the garage for two cars and storage of lawnmower and snow blower.

Mr. Fierro reviewed the criteria under sections VI -Table of Dimensional & Density footnote 2 for a legally pre-existing non-conforming lot, due to insufficient front setbacks and lot area.

MOTION:

Mr. Fierro moved that the Board find the applicant has met criteria 1-6. Mr. Vlahos seconded the motion passed unanimously with a roll call vote.

MOTION:

Mr. Fierro moved that the Board grant the Petitioner's request to modify the Special Permit dated 2.20.2020 pursuant to IIB.2 and XI.J of the Protective Zoning Bylaw to construct a 28' x 28' garage, no closer than 25-feet to the left side setback; subject to the following conditions: the garage will be one story, no loft; finish siding material to match the house with two windows or more added to the side facing the neighbor; all lightning will be facing downwards. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition application and associated documents.

Approval of Minutes:

Mr. Fierro moved to approve the meeting minutes of 7.16.2020 as presented. Mr. Vlahos seconded, the motion passed unanimously. *(meeting minutes hereby incorporated by reference)*

Adjourn - It was moved, seconded and unanimously voted to adjourn at 10:30 p.m.

Respectfully submitted,
Marie Rodgers
Administrative Assistant

These minutes were approved by the Board with minor edits on 9.17.2020

IPSWICH ZBA

Meeting Minutes

Pursuant to the 'Open Meeting Law' the approval of these minutes by the Board constitutes a certification of the date, time and place of the meeting; the members present or absent; the findings made and actions taken. Any other description of statements made by any person, or the summary of the discussion on any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Board as to the completeness or accuracy of such statements.